

ORDINANCE NO. 16- 05**AN ORDINANCE AMENDING THE ROGERS CITY CODE BY ADOPTING SECTION 14-736, CODIFYING GUIDELINES FOR HOME OCCUPATIONS; PROVIDING FOR THE EMERGENCY CLAUSE AND FOR OTHER PURPOSES.**

WHEREAS, the Rogers City Code needs revised to provide for home occupation regulations to better clarify the intent of the City Council.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

Section 1: That Rogers City Code is hereby amended by adopting Section 14-736, as shown in Exhibit "A", attached hereto and incorporated by reference as if set out word for word herein.

Section 2: That the need to adopt said city code sections is immediate and in order to protect the public peace, health, safety and welfare an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the date of its passage and approval.

Section 3: Severability Provision- In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 4: Repeal of Conflicting Ordinances and Resolutions- All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED this 12th day of January, 2016.

APPROVED:

C. Greg Hines
C, GREG HINES,
Mayor

Attest:

Peggy David
PEGGY DAVID, City Clerk

Prepared by: Chris Griffin, Senior Staff Attorney

EXHIBIT "A"**Sec. 14-736. – HOME OCCUPATIONS****(a) Purpose.**

The purpose of this section is to allow residents in the following zones: R-SF (residential single-family), R-AH (residential affordable housing), R-DP (residential duplex and patio home), and N-R (Neighborhood Residential), the privilege of engaging in the limited pursuits of home occupations. This would allow residents to operate minimal business activities and offer limited professional services in their homes. Home Occupancy may also be allowed in the following zones with approval of a Conditional Use Permit: R-MF (residential multi-family), R-MHC (Residential manufactured home community), and A-1 (Agriculture district).

(b) Definition.

Home Occupation shall mean a business, profession, occupation, or trade conducted for gain or support entirely within a residential building which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential character of such building. A "home occupation" is a business, profession, occupation or trade conducted for gain or support entirely within a residential building, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building.

(c) Regulations.

- (1) The home occupation must be clearly incidental and secondary to the primary residential use for the dwelling. The primary use of the building in which the home occupation is situated shall clearly be the dwelling used by the person as his/her private residence;
- (2) The home occupation must not change the outside appearance of the dwelling;
- (3) Exterior signage for a home occupation is prohibited;
- (4) The home occupation must not generate traffic, parking, sewerage or water use in excess of what is normal or customary in a residential neighborhood;
- (5) The home occupation shall not create a hazard to person or property, result in electrical interference, or become a nuisance in the neighborhood;
- (6) No outside storage of any kind related to the home occupation shall be permitted;
- (7) No person other than self or family members residing on the premises, shall be employed or involved in any business activity related to the home occupation on the premises.

- (8) No more than 25% of the gross floor area of the dwelling unit shall be used for the operation of the home occupation. No accessory buildings shall be issued in conjunction with a home occupation.
- (9) Deliveries of materials to and from the premises in conjunction with the home occupation shall not require the use of vehicles other than parcel post or similar parcel services vehicles;
- (10) Noise, vibration, smoke, odors, heat or glare as a result of a home occupation, which would exceed that which is normally produced by a single residence, shall not be permitted;
- (11) The home occupation shall not utilize more than one private commercial vehicle limited to 1 ton capacity. The vehicle shall be capable of being parked or stored inside the garage and shall be required to be kept in said garage when not in use for the home occupation;
- (12) Retail sales on the premises shall be secondary to the major operation of the home occupation;
- (13) Home occupations shall maintain required permits mandated by applicable local, state and /or federal laws;
- (14) Persons intending to operate a home occupation should notify the Property Owners Association ("POA") or Homeowners Association ("HOA"), of their intent prior to beginning operations. The above regulations shall not be construed to supersede or negate any provisions contained in POA or HOA Regulations or any covenants thereof.

(d) Permit Required.

All home occupations are required to obtain a Home Occupation Permit in accordance with the licensing and taxation requirements of the City and as provided in Chapter 48, Taxation, of this Code.

- (1) A Home Occupation permit shall not be issued until a Home Occupational Zoning Approval Form has been completed by the applicant and approved by the Planning Department;
- (2) Home Occupation permits shall expire on December 31 of each year;
- (3) A Home Occupation Permit issued is non-transferable; it shall only be valid for the applicant, occupation, and residence for which it is issued.

(e) Revocation/Suspension.

- (1) In addition to the penalties punishable as set forth in Rogers Municipal Code, any Home Occupation permit issued under these regulations may be suspended or revoked by the City Planner, or their designee, for any of the following reasons:

- i. Fraud, misrepresentation or knowingly false statement contained in the application for the permit.
- ii. Conducting the home occupation in any manner contrary to the conditions of the regulations contained in this section, or in violation of any other section contained this code.
- iii. Conducting the home occupation in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare, or morals, or interfere with the rights of abutting property owners.
- iv. Failure to pay applicable business permit tax.

(f) Appeals

If a Home Occupation Permit is suspended or revoked by the City, the permit holder shall have 10 days from the date of the suspension or revocation to file their appeal for consideration by the Planning Commission. The appeal shall be filed by sending written notice to the City Clerk and shall be heard at the next available Planning Commission meeting. The timely filing of an appeal to the Planning Commission shall stay the suspension or revocation of the permit until the matter is heard by the Planning Commission.

(g) Penalties

Any violation of this section shall be subject to the penalty provisions as outlined in Section 1-5.